

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

DANIEL LEE KEETEN,

Plaintiff,

v.

Civil Action No. 2:15-13616

NANCY A. BERRYHILL,

ACTING COMMISSIONER OF SOCIAL SECURITY,

Defendant.

MEMORANDUM OPINION AND ORDER

The court having received the Proposed Findings and Recommendation of United States Magistrate Judge Dwane Tinsley, entered on February 28, 2017; and the magistrate judge having recommended that the court grant plaintiff's Brief in Support of Judgment on the Pleadings to the extent it seeks remand; and the magistrate judge having further recommended that the court deny the Commissioner's Brief in Support of the Defendant's Decision, reverse the final decision of the Commissioner, remand this case for further proceedings, and dismiss this matter from the court's docket; and no objection having been filed to the Proposed Findings and Recommendation, it is ORDERED that:

1. The findings made in the Proposed Findings and Recommendation of the magistrate judge be, and they hereby are,

adopted by the court and incorporated herein;

2. Plaintiff's Brief in Support of Judgment on the Pleadings be, and it hereby is, granted to the extent it seeks remand;

3. The defendant's Brief in Support of the Defendant's Decision be, and it hereby is, denied;

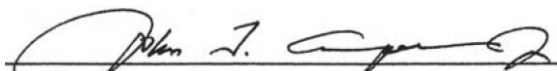
4. The decision of the Commissioner be, and it hereby is, reversed;

5. That this action be, and it hereby is, remanded for further proceedings, pursuant to sentence four of 42 U.S.C. § 405(g), which proceedings shall include analysis of plaintiff's impairments under Listing 12.05C and consideration of conflicting evidence regarding plaintiff's deficits in adaptive functioning, as more fully discussed in the magistrate judge's proposed findings and recommendations; and

6. This civil action be, and it hereby is, dismissed and stricken from the docket of the court.

The Clerk is directed to forward copies of this order to all counsel of record and the United States Magistrate Judge.

DATED: March 21, 2017

A handwritten signature in black ink, appearing to read "John T. Copenhaver, Jr.", is written over a horizontal line.

John T. Copenhaver, Jr.
United States District Judge